



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

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September 23, 2009

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TO: SACHI A. HAMAI
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: JOHN F. KRATTLI
Senior Assistant County Counsel

RE: **Craig W. Ginsburg v. County of Los Angeles**
Los Angeles Superior Court Case No. MC 018 533

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation regarding the above-referenced matter. Also attached are the Case Summary, the Summary Corrective Action Plan, and the Corrective Action Plan to be made available to the public.

It is requested that this recommendation, the Case Summary, the Summary Corrective Action Plan, and the Corrective Action Plan be placed on the Board of Supervisor's agenda.

JFK:rfm

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Craig W. Ginsburg v. County of Los Angeles, Los Angeles Superior Court Case No. MC 018 533, in the amount of \$90,000 plus a waiver of \$374,586 in medical bills, and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Department of Public Health's budget.

This dangerous condition lawsuit arises from a slip and fall incident at the Acton Rehabilitation Center.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Craig W. Ginsburg v. County of Los Angeles
CASE NUMBER	MC018533
COURT	Los Angeles Superior Court
DATE FILED	9/26/2007
COUNTY DEPARTMENT	Public Health
PROPOSED SETTLEMENT AMOUNT	\$ 90,000 plus waiver of \$374,586 hospital bill
ATTORNEY FOR PLAINTIFF	Robert Lepore, Esq.
COUNTY COUNSEL ATTORNEY	Brian T. Chu Principal Deputy County Counsel
NATURE OF CASE	<p>On 12/24/2006, Claimant was a resident patient at the Acton Rehabilitation Center (ARC). In the late afternoon, Mr. Ginsburg was in the ARC cafeteria kitchen when he slipped/tripped and fell allegedly on a spot of liquid on the floor. He fell forward and received a laceration over his left eye that required stitches. He also sustained soft tissue injuries to his low back and left shoulder. He received a discectomy and fusion of his lumbar spine at a County hospital in August 2007.</p> <p>Claimant filed suit against the County contending that it</p>

maintained a dangerous condition of public property. The County contends that it performed adequate and timely safety inspections for floor spillage and that Claimant was comparatively negligent in injuring himself.

Due to the inherent risks and uncertainties involved in a trial, the potential liability and potential exposure to an adverse verdict, the County proceeded with settlement negotiations and was eventually able to develop this recommended settlement with the plaintiff.

PAID ATTORNEY FEES, TO DATE	\$	21,387
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PAID COSTS, TO DATE	\$	4,870
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Summary Corrective Action Plan



Ginsburg v. County of Los Angeles

Plaintiff: Ginsburg, Craig
Court case #: MC018533
County file #: 07-10535930
Carl Warren file #: A-0041

Date of incident/event:	12/24/2006. Claim filed 6/16/07.
Briefly provide a description of the incident/event:	<p>Personal injury/dangerous condition case. Plaintiff, a resident at the Antelope Valley Rehabilitation Center (AVRC), entered the kitchen work area on 12/24/06 through a back door after serving hours and asked to assist and get fed. The cook in charge incorrectly assumed Plaintiff was an authorized, trained volunteer worker from the resident population. While walking to get food, Plaintiff fell and cut his head on a counter. The cook witnessed this and said he saw no foreign matter on the floor, but Plaintiff said he saw a small "smear" on the floor after his fall. Plaintiff was treated on the scene and at a local hospital, receiving three stitches. Plaintiff claimed pain in his right shoulder and neck, and lower back. X-rays and a CT scan found no fractures. Subsequent MRIs revealed severe spinal stenosis.</p>

County of Los Angeles
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Summary Corrective Action Plan

	<p>indicating Plaintiff had a longstanding, lower back condition.</p> <p>Plaintiff was seen at the same hospital on 4/07 after he fell down stairs at home, X-rays showed no changes from the films taken 12/06. Plaintiff eventually received back surgery at LAC+USC, acquiring a MRSA infection in the surgery site.</p>
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Root causes of the claim/lawsuit:

Root cause 1: Unauthorized access to work area of kitchen.

- a. The kitchen lacked a system for tracking if residents were authorized workers.
- b. The kitchen lacked physical security for the employee entrance.
- c. The kitchen lacked signage regarding unauthorized entrance.

Root cause 2: Foreign matter on the floor may have contributed to the slip and fall.

Root cause 1 corrective actions.

- a. Beginning on September 30, 2009, a daily listing of authorized resident workers will be prepared by the AVRC Administration, and posted in the kitchen daily to the Chief Cook. Cooks in charge of each shift will check if persons entering the kitchen are so authorized, and deny entry if they are not.
- b. By September 30, 2009, the rear employee entrance door will be altered to a self-locking, alarmed door that is fire-code compliant.
- c. By September 30, 2009, appropriate signage will be posted at all kitchen entrances.

Root cause 2 corrective actions.



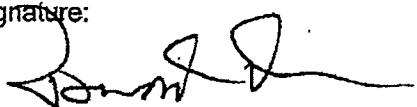
- a. The nature of kitchen operations is that spills and drips occur frequently. Scheduled inspections for such occurrences are not productive, since they may happen at any time. By September 30, 2009, assigned staff will be re-instructed to constantly inspect for, and clean up, foreign matter on the floor.
- b. By September 30, 2009, require that kitchen employees wear footwear that

County of Los Angeles
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- Summary Corrective Action Plan

- fully encloses the foot and has slip resistant soles.
- c. By September 30, 2009, provide a slip resistant flooring surface or slip resistant floor covering mats in areas where spills or wet areas are likely to occur.
 - d. By September 30, 2009, keep aisles and heavy traffic areas clear at all times.
 - e. By September 30, 2009, promptly store delivered goods in designated areas to maintain safe walking and working areas.

3. Applicability of corrective actions to other County departments:

The corrective actions may apply to other departments that operate food services.

Signature: (Risk Management Coordinator & Author) 	Date: July 28, 2009
Signature:  Director	Date: July 30, 2009
Signature:  Chief Deputy	Date: 7.28.09



JONATHAN E. FIELDING, M.D., M.P.H.
Director and Health Officer

JONATHAN E. FREEDMAN
Chief Deputy Director

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CORRECTIVE ACTION PLAN

Program: Alcohol and Drug Program (ADP)
Plaintiff: Ginsburg, Craig
Court case #: MC018533 (Lancaster)
County file #: 07-10535930
Carl Warren file #: A-0041

BACKGROUND:

Personal injury case. Plaintiff, a 48 year old resident at the Antelope Valley Rehabilitation Center, entered the kitchen work area on 12/24/06 via a rear entrance after serving hours, asking to assist and get fed. The cook in charge incorrectly assumed Plaintiff was an authorized, trained volunteer worker from the resident population, and allowed Plaintiff to take out some trash. The cook then instructed Plaintiff to serve himself a meal.

While walking to get the meal, Plaintiff, who is blind in one eye, slipped and fell, cutting his head on a counter. The cook witnessed this and said he thought Plaintiff tripped on an elevated catch basin. The Plaintiff's depth perception may be less than ideal, due to blindness. The cook saw no foreign matter on the floor, but Plaintiff said he saw a small "smear" on the floor after his fall, and claimed he did not trip over the elevated catch basin.

Plaintiff was treated on scene and received three stitches at a hospital for the cut. Plaintiff claimed pain in his right shoulder and neck, and lower back. X-rays and a CT scan found no fractures. Subsequent MRIs revealed severe spinal stenosis, indicating Plaintiff had a longstanding, lower back condition. Plaintiff was seen at the same treating hospital on 4/07 after he fell down stairs at home, X-rays taken then showed no changes from the films taken in 12/06. Plaintiff eventually received back surgery at LAC+USC, acquiring a MRSA infection in the surgery site. The LAC+USC medical costs were \$374,586, but were waived by an agreement with County Counsel. The Department of Public Health agreed to pay Plaintiff \$90,000 in the settlement.

SYSTEM ISSUES AND CORRECTIVE ACTION STEPS

System issue 1 – Unauthorized access to work area of kitchen.

- a. The kitchen lacked a system for tracking if residents were authorized workers.
- b. The kitchen lacked physical security for the employee entrance.
- c. The kitchen lacked signage regarding unauthorized entrance.

Corrective actions for system issue 1:

- a. Beginning September 30, 2009, a daily listing of authorized resident workers will be prepared by the AVRC Administration, and posted daily in the kitchen by the Chief Cook. Cooks in charge of each shift will check if persons entering the kitchen are so authorized, and deny entry if they are not.
- b. By September 30, 2009, the rear employee entrance door will be altered to a self-locking, alarmed door that is fire-code compliant.
- c. By September 30, 2009, appropriate signage regarding restricted entry will be posted at all kitchen entrances.

System issue 2 – Foreign matter on the floor may have contributed to the slip and fall.

Corrective actions for system issue 2:

- a. Scheduling inspections for spills was considered. However, the nature of kitchen operations is that spills and drips occur frequently, and therefore must be monitored for continuously. By September 30, 2009, assigned staff will be re-instructed to constantly inspect for, and clean up, spilled foreign matter.
- b. By September 30, 2009, require that kitchen employees wear footwear that fully encloses the foot and has slip resistant soles.
- c. By September 30, 2009, provide a slip resistant flooring surface or slip resistant floor covering mats in areas where spills are likely to occur.
- d. By September 30, 2009, keep aisles and heavy traffic areas clear at all times.
- e. By September 30, 2009, promptly store delivered goods in designated areas to maintain safe walking and working areas.

Verification for corrective actions:

The departmental Risk Manager will follow up all corrective actions for completion no later than October 1, 2009. The departmental Audit & Investigation Division will conduct a verification of corrective action completions no later than October 31, 2009.

PERSONNEL ISSUES

The assistant cook could have chosen to make an effort to verify the Plaintiff's implied status as an authorized volunteer worker. But, it probably would have been fruitless, considering there was reduced staffing of the facility on a Christmas holiday eve. No formal personnel action was taken. Staff was reminded of the need for proper security.

Department of Public Health
Corrective Action Plan
Ginsburg case, MC018533

CONCURRENCE:

The above corrective action plan has been approved for implementation.

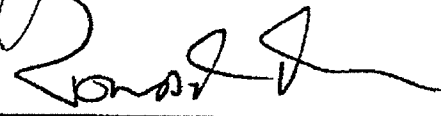
Written

by:  Date: August 19, 2009
Risk Manager

Approved

by:  Date: 8/25/09
Director

Approved

by:  Date: 8.20.09
Chief Deputy